

REMARKS

Upon entry of the foregoing amendments, claims 1-10 will be pending in this application. Claims 1 and 3 are the only independent claims.

Applicant appreciates the Examiner's acknowledgement that claims 1 and 2 are free of the prior art.

Claims 1, 4 and 5 have been amended to include a period at the end of each of the claims that was inadvertently omitted from the original claims, thereby overcoming the rejection of these claims under 35 U.S.C. § 112, second paragraph. This is a mere typographical error that does not narrow the claim.

Claim 3 has been amended to recite that the medicament contains, in addition to the compound having the formula defined therein a pharmaceutical carrier, as supported, for example, at paragraphs [0031], [0033] and [0038] – [0046] of the application as filed. Water and other aqueous carries are included as set forth in paragraphs [0041], [0043], [0045] and [0046]. Claim 3 has also been amended to include a designation "(A)", originally inadvertently omitted, next to the formula following the language "the general formula (A)". This amendment corrects an obvious error and does not add new matter. Additionally, claim 3 has been amended to recite that the compound of general formula (I) is present in an amount effective to treat a cancer disease. Treatment of cancer is an indicated treatment of the medicament in many locations throughout the application as filed, for example, in paragraphs [0003], [0004] and [0018], among others, and effective amounts are set forth in paragraphs [0031] to [0038], of the application as filed. Thus, the amendments are supported by the application as filed and do not add new matter. In addition, the medicament of claim 3 now recites more than sufficient information to support the medicament properties of the composition, rather than being considered merely a composition comprising a compound of formula (I).

The amendment of claim 3 clearly overcomes the prior art rejections of claim 3 and claims 4 and 5, each depending from claim 3, over the cited prior art references. The Examiner indicated that these claims were considered merely to relate to a chemical composition, since a "medicament" was considered to be a statement of intended use, rather than a property of the composition. As a result, the cited references were relied upon as disclosing a compound within the indicated formula (I) made in water, such that the Examiner considered the compound

together with such water to read on, and thereby anticipate the claimed composition under 35 U.S.C. § 102(b). Applicant respectfully submits that the cited references are directed to certain compounds and how to make them, but not a medicament, including an aqueous medicament including the compound of formula (I) in an amount effective to treat cancer, or a method of using such compounds to treat cancer. The invention claimed in claim 3 is distinguished from the prior art which merely has the incidental presence of a compound from the prior art in water while it is being made, and without even a hint that the compound should be, could be or is present in an amount effective to treat cancer. Claim 3 and all claims depending from claim 3, should now be allowable over the cited prior art.

Claim 6 has been amended to delete the recitation relating to prevention of cancer, thus overcoming the rejection of claim 6 under 35 U.S.C. § 112, first paragraph. To further clarify method of treatment claim 6, without narrowing its scope, claim 6 was amended to place it more into traditional U.S. patent practice format, referring to a cancer disease in the singular (see for example paragraph [0036] at page 5, line 7), and reciting that the compound is administered to a subject having a cancer disease (see paragraphs [0031] to [0038], for example). No new matter has been added and the amendments are fully supported by the application as filed.

New claims 7-10 correspond in format to claim 6 as method of treatment claims, and relate to methods of treatment using the compound or medicament of claims 2-5, respectively. As such, no new matter has been added.

Entry of the foregoing amendments are respectfully solicited.

Applicant respectfully submits that the application is now in condition for allowance and requests the Examiner to reconsider and withdraw all rejections and issue a prompt notice of allowance with respect to all claims pending in the application.

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Respectfully submitted,

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(Date)

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